

REMARKS

With the above amendments, claims 1-4 and 7-13 are currently pending. The Examiner rejected claims 1-4 and 7-11. In particular, claims 1, 2, 4, 7-9, and 11 stand rejected as being anticipated (§102) by U.S. Patent No. 5,529,357 to Hoffman ("Hoffman patent"). Claims 3 and 10 stand rejected as being unpatentable (§103) over the Hoffman patent.

I. §102 Rejections

The Examiner rejected claims 1, 2, 4, 7-9, and 11 as being anticipated by the Hoffman patent. Claims 1 and 8 have been amended to overcome the Examiner's rejection. As amended, independent claims 1 and 8, and their dependent claims, are not anticipated by the Hoffman patent because the Hoffman patent does not disclose a generally rigid forearm brace.

A. As Amended, Claims 1 and 8 Are Not Anticipated By The Hoffman Patent

In order for a reference to anticipate the invention, each claimed element must be disclosed in the reference. As amended, claims 1 and 8 require a generally rigid forearm brace. See, claims 1, 8 ("a generally rigid brace attached to said frame member adjacent said distal end of said frame member, wherein said brace has a forearm engaging surface"). The Hoffman patent does not disclose a generally rigid forearm brace, but rather discloses a flexible set of straps for encircling a user's forearm. See Hoffman patent, col. 6, lines 18-21 ("[t]his forearm securing means **24** is further provided with a pair of flexible straps **26** and **26'**. These straps **26** and **26'** are designed to receive, wrap around and secure a portion of the forearm of the user.").

As such, claims 1 and 8 are not anticipated by the Hoffman patent because it does not disclose a generally rigid forearm brace. Consequently, the Hoffman patent does not anticipate the present invention as claimed in claims 1 and 8.

B. Claims 2, 4, 7, 9 and 11 Are Not Anticipated By the Hoffman Patent

Because claims 2, 4, and 7, which depend from claim 1, incorporate all the limitations of claim 1, the above arguments apply a fortiori to this ground for rejection. Because Claims 9 and 11, which depend from claim 8, incorporate all the limitations of claim 8, the above arguments apply a fortiori to this ground for rejection. Thus, claims 2, 4, 7, 9 and 11 are not anticipated by the Hoffman Patent.

II. Claims 3 and 10 Are Not Made Obvious By the Hoffman Patent

The Examiner rejected claims 3 and 10 as unpatentable over the Hoffman patent. Claim 3, which depends from claim 1, incorporates all the limitations of claim 1. Claim 10, which depends from claim 8, incorporates all the limitations of claim 8. It is respectfully submitted that claims 3 and 10 are not made obvious by the Hoffman patent because the combination claimed in claims 3 and 10 is not suggested by the Hoffman patent. Thus, claims 3 and 10 are patentable over the Hoffman patent.

III. New Claims 12 and 13 Are Not Anticipated By The Hoffman Patent Because The Hoffman Patent Does Not Disclose A Forearm Brace For A Tool With A Frame Member Having A Generally Short Longitudinal Dimension

New claims 12 and 13 bear some similarity to claims that have been previously rejected under 35 U.S.C. § 102 (“§ 102”) as being anticipated by the Hoffman patent. However, new claims 12 and

13 include an additional limitation not present in claims earlier rejected as being anticipated by the Hoffman patent. Namely, in contrast to previously rejected claims, new claims 12 and 13 are limited to hand held gardening implements with a frame member having a generally short longitudinal dimension. See, claims 12, 13 (“a frame member having a generally short longitudinal dimension”).

In addition to requiring a frame member having a generally short longitudinal dimension, new claims 12 and 13 also require a forearm brace. See, claims 12, 13 (“a brace attached to said frame member adjacent said distal end of said frame member, wherein said brace has a forearm engaging surface”). Thus, new claims 12 and 13 require both a frame member having a generally short longitudinal dimension and a forearm brace.

Claims 12 and 13 are not anticipated by the Hoffman patent because the Hoffman patent does not disclose a forearm brace for a tool with a frame member having a generally short longitudinal dimension.

A. Description Of The Hoffman Patent

The Hoffman patent separately addresses two types of tools: long-handled tools and hand tools. That is, the Hoffman patent describes an embodiment for “Long-Handled Tools” and an embodiment for “Hand Tools.” See, Hoffman patent, cols. 6,9. Each of the tools described in the Hoffman patent as “long-handled tools” have an elongate longitudinal dimension and are to be used while standing upright. See e.g., Hoffman patent, col. 6, lines 11-12 (“ a broom or rake”); col. 8, line 12 (“a mop having a mechanical wringing mechanism”); col. 8, lines 8-9 (“allow[s] the user to operate the tool while maintaining a more upright posture”). On the other hand, in contrast to the long-handled tools disclosed in the Hoffman patent, each of the tools described in the Hoffman patent as “hand tools”

have a generally short longitudinal dimension. See e.g., Hoffman patent, col. 9, lines 52-53 (“a hand tool, such as a hand brush, trowel, sanding block or the like”); col. 10, lines 13-14 (“a hand trowel [] or similarly handled tool”).

As set forth in applicant’s previous amendment and response filed on March 10, 2000 in response to the Office Action mailed on December 9, 1998, the Hoffman patent discloses a forearm securing means for long-handled tools, which as aforementioned, have an elongate longitudinal dimension and are to be used while standing upright. The forearm securing means has a pair of straps designed to receive, wrap around and secure a portion of the forearm of the user. See Hoffman patent, col. 6, lines 18-21 (“[t]his forearm securing means **24** is further provided with a pair of flexible straps **26** and **26'**. These straps **26** and **26'** are designed to receive, wrap around and secure a portion of the forearm of the user.”).

However, as also set forth in applicant’s previous amendment and response filed on March 10, 2000 in response to the Office Action mailed on December 9, 1998, the Hoffman patent discloses a separate embodiment for hand tools, which as aforementioned, each have a generally short longitudinal dimension:

[W]ith reference to FIGS. **10-12**, a leveraging assembly **110** for a tool **2**, particularly a hand tool, such as a hand brush, trowel, sanding block or the like requiring repetitive motion and resulting in strain to the wrist and hand muscles and joints, will [] be described.

[S]hown in FIG. **12**, a leveraging assembly **130** for use with a hand trowel **4** or similarly handled tool will [] be described.

See Hoffman patent, col. 9, lines 51-55 and col. 10, lines 12-14 (emphasis added).

In particular, for tools with a generally short longitudinal dimension, the Hoffman patent discloses a wrist securing means not a forearm securing means:

The assembly for the hand tool is provided with a wrist securing means 112 having a pair of straps 114 and 114' that wrap around and secure a portion of the user's wrist.

The wrist securing means 132 is further comprised of a pair of flexible straps 136 and 136' which can be adjusted to accommodate the dimensions of the user's wrist.

Hoffman patent, col. 9, lines 63-66, and col. 10, lines 14-19 (emphasis added). Thus, for tools with a generally short longitudinal dimension, the Hoffman patent expressly teaches the use of a wrist securing means that has a pair of straps that wrap around and secure a portion of the user's wrist.

B. New Claims 12 And 13 Are Not Anticipated By Hoffman

In the Office Action mailed on April 21, 1999, the Examiner noted applicant's argument that the Hoffman patent does not disclose a forearm brace for a hand held implement. The Examiner set forth that the long-handled tool set forth in the Hoffman patent discloses a forearm engaging strap. The Examiner further expressed that "there is nothing in Hoffman that precludes the long handled tool as being 'a hand held gardening implement' as claimed." See, Office Action, mailed April 21, 1999, page 4. New claims 12 and 13 are responsive to Examiner's argument by precluding long handled tools from falling within the scope of the new claims. New claims 12 and 13 expressly require "a frame member having a generally short longitudinal dimension," as opposed to an elongate longitudinal dimension as present in a long-handled tool.

New claims 12 and 13 of the present invention obviate any potential rejections under § 102 by requiring both that the tool has a frame member having a generally short longitudinal dimension and a forearm brace. See, claims, 12, 13 (“A hand held gardening implement, comprising: a frame member having a generally short longitudinal dimension” and . . . “a brace attached to said frame member adjacent said distal end of said frame member, wherein said brace has a forearm engaging surface”).

Claims 12 and 13 are not anticipated by the Hoffman patent because it does not disclose a tool with a generally short longitudinal dimension also having a forearm brace. In fact, the Hoffman patent teaches away from using a forearm brace with a tool with a generally short longitudinal dimension by (1) expressly teaching the use of a wrist securing means with a hand tool (whereas each “hand tool” disclosed has a generally short longitudinal dimension in contrast to the long-handled tools) and (2) limiting the use of a forearm securing means to long-handled tools.

Consequently, the Hoffman patent does not anticipate the present invention as claimed in new claims 12 and 13.

IV. New Claims 12 And 13 Are Not Made Obvious By The Hoffman Patent.

New claims 12 and 13 bear some similarity to claims that have been previously rejected under 35 U.S.C. § 103 (“§ 103”) as being unpatentable over the Hoffman patent. It is respectfully submitted that claims 12 and 13 are not made obvious by the Hoffman patent because the combination claimed in claims 12 and 13 is not suggested by the Hoffman patent. In fact, the Hoffman patent teaches away from such a combination. The Hoffman patent does not teach the use of a forearm brace with tools having a generally short longitudinal dimension. As discussed above, the Hoffman patent teaches the use of a forearm securing means for long-handled tools, but teaches the use of a wrist securing means for hand tools. Consequently, the Hoffman patent would not lead one of ordinary skill to make the combination provided for in either of new claims 12 or 13 of the present invention. Thus, new claims 12 and 13 are patentable over the Hoffman patent.

CONCLUSION

Applicant has pointed out the lack of anticipation of the claims, as amended, by the Hoffman patent and has pointed out that the claims are patentable over the Hoffman patent.

Consequently, claims 1-4 and 7-13 appear to be allowable and a Notice of Allowance is requested.

This response is being filed with a Petition to Revive Under 37 CFR §1.137(b) and a Request for a Continuing Prosecution Application Under 37 CFR 1.53(d), along with a check in the amount of \$950.00. It is believed that no additional fees are due in connection with this communication.

However, the Office is hereby authorized to charge any deficiency, or credit any overpa.

Deposit Account 04-1420.

Respectfully submitted,

Janie McKittrick

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By Devan V. Padmanabhan

Devan V. Padmanabhan

Registration No. 38,262

Dorsey & Whitney LLP

Pillsbury Center South

220 South Sixth Street

Minneapolis, Minnesota 55402-1498

Telephone: 612-343-7990

Attorneys for Applicant